IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

WARREN REED §

VS. § CIVIL ACTION NO. 1:08-CV-775

WARDEN ALFORD, ET AL. §

MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Warren Reed, a prisoner confined at the LeBlanc Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff requested leave to proceed *in forma pauperis*.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends denying plaintiff leave to proceed *in forma pauperis*, and dismissing the action pursuant to 28 U.S.C. § 1915(g) unless plaintiff paid the \$350 filing fee within ten days.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the

objections are without merit. Plaintiff has not demonstrated that he was in imminent danger of serious physical injury at the time he filed this lawsuit.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Plaintiff's motion for leave to proceed *in forma pauperis* is **DENIED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this the 8 day of January, 2009.

Thad Heartfield

United States District Judge